

Proc. I

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

9285

FILE: B-193984

DATE: February 23, 1979

MATTER OF: Hesse Machine & Mfg. Co. Inc.

DLG01022

DIGEST:

[Late Bid Receipt Resulting From Severe Snowstorm]

1. Bidder who selects other than registered or certified mail when using postal service to mail bid assumes risk of late delivery. Therefore, late bid sent regular mail may not be considered even though late receipt allegedly resulted from unforeseen severe weather conditions.
2. Protest is summarily denied where protester's initial submission demonstrates affirmatively that protester is not entitled to relief.

Hesse Machine & Mfg. Co. Inc. (Hesse) has protested the United States Army Materiel Readiness Command's (Army) refusal to consider its bid which was received after the time specified in invitation for bids (IFB) No. DAAA09-79-B-4222. Hesse maintains that its bid was sent by regular mail and postmarked January 12, 1979, which is more than enough time for the bid to travel from Boston, Massachusetts, to Rock Island, Illinois, and arrive prior to the scheduled bid opening on January 18, 1979. Further, Hesse advises that the reason for its bid's late arrival was a severe snowstorm in the Chicago area during January 13 and 14, an act of God, causing the delivery of mail to stop for days.

We believe the issue presented may be decided on the basis of the protester's initial submission and without further development pursuant to our protest procedures, 4 C.F.R. Part 20, et seq. (1978), because the documents submitted, and read in the light most favorable to the protester, affirmatively demonstrate that the protester is not entitled to relief. See Hawthorn Mellody, Inc., B-190211, November 23, 1977, 77-2 CPD 406.

~~883869~~

[Handwritten signature]

Defense Acquisition Regulation (DAR), formerly the Armed Services Procurement Regulation, § 7-2002.2 (1976 ed.), provides in pertinent part:

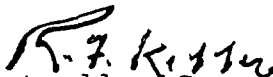
"LATE BIDS, MODIFICATIONS OF BIDS OR
WITHDRAWAL OF BIDS (1974 SEP)

"(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and * * *:

"(i) it was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier); * * *"

While it is unfortunate that the severe snow in the Chicago area prevented Hesse's bid from arriving prior to bid opening, we have consistently held that it is the bidder's responsibility to see that its bid is mailed in time to reach the designated office by opening time. See Z B Precision Products, Inc., B-187985, May 6, 1977, 77-1 CPD 316. Moreover, our decisions hold that where, as here, a bidder who elects other than registered or certified mail when using the postal service for delivery of its bid assumes the risk of late delivery. See Z B Precision Products, Inc., supra.

Accordingly, Hesse's protest is summarily denied.


Deputy Comptroller General
of the United States